

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ALVIN A. RIVERS,	:	
	:	
	:	<u>ORDER</u>
Plaintiff,	:	19 Civ. 11554 (PAE) (GWG)
	:	
-V.-	:	
	:	
VERIZON COMMUNICATION OF	:	
NEW YORK, and FEDERAL	:	
COMMUNICATION COMMISSION,	:	
	:	
Defendants.	:	
-----X	:	

**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

Defendants Verizon and the FCC have both filed motions to dismiss under Fed. R. Civ. P. 12(b). (Docket ## 12, 21). Plaintiff's opposition to the FCC's motion was due May 27, 2020 (Docket # 20) and his opposition to Verizon's motion was due June 1, 2020. (Docket # 24). Plaintiff has now filed a letter seeking an extension and asking to file an amended complaint. (Docket # 25). Defendant Verizon opposes this application and asserts that the plaintiff requires Court approval for the filing of any amended complaint. (Docket # 26).

Plaintiff claims he never received the defendants' motion papers. Rather than determine what might have gone wrong, the Court directs each defendant to serve their motion papers again — this time by U.S. mail — and to file proof of service within 7 days. (The parties are also free to agree to alternative service among themselves.) If plaintiff does not receive the papers by June 24, 2020, he shall telephone the defendants' attorneys to determine how best to get the papers. If plaintiff receives email, it is suggested that he agree to receive them by email.

Under Fed. R. Civ. P. 15(a)(1)(B), plaintiff would have the absolute right to file an amended complaint without permission from the Court "21 days after service of a motion under Rule 12(b) . . . ." In light of the issues regarding service, the Court will construe plaintiff's letter as an application pursuant to Fed. R. Civ. P. 6(b) to extend this deadline for good cause and will grant that application.


Accordingly, plaintiff shall file either (1) an amended complaint or (2) opposition to the defendants' motions to dismiss on or before July 9, 2020. Any reply papers are due July 30, 2020. Plaintiff may file his papers by mailing them to Pro Se Docketing, 500 Pearl Street, New York, NY 10007. Alternatively, plaintiff may email his papers by using the instructions available at <https://www.nysd.uscourts.gov/forms/instructions-filing-documents-email>

Plaintiff is warned that if he files an amended complaint, it will completely replace the prior complaint, and he may not be granted another opportunity to amend.

The Clerk is directed to mail a copy of this Order to plaintiff.

SO ORDERED.

Dated: June 10, 2020  
New York, New York

  
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GABRIEL W. CORENSTEIN  
United States Magistrate Judge